

**3033. Misbranding of champagne cognac. U. S. v. 249 Cases Champagne Cognac. Decree of condemnation by consent. Product released on bond. (F. & D. Nos. 5027 to 5045, incl. S. No. 1687.)**

On February 10, 1913, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 249 cases of champagne cognac, remaining unsold in the original unbroken packages at Boston, Mass., alleging that the product had been shipped by A. Blum Jr.'s Sons, New York, N. Y., consigned to A. B. Christie & Co., Boston, Mass., and transported from the State of New York into the State of Massachusetts, and charging misbranding in violation of the Food and Drugs Act. The product was labeled: (On case) "Bottled by Vve Robert & Cie, Cognac—S. S. France—B. New York—Vve Robert & Cie, Cognac—France." (On bottles) "Fine Champagne Cognac—Trade Mark."—(Design—in gilt color a barrel bearing a figure on top and stenciled on one end "Vve Robert & Cie, Cognac"; grape vines and clusters of grapes) "Vve Robert & Cie.—Cognac—France."

Misbranding of the product was alleged in the libel for the reason that said food upon the packages and labels thereof bore certain statements, designs, and devices regarding the ingredients and substances contained in said food, that is to say, the following words, abbreviations of words, and pictures: "Bottled by Vve Robert & Cie, Cognac, S. S. France," "Fine Champagne Cognac, Trade Mark," and a picture of a barrel prominently displayed thereon surrounded by pictures of grape vines and clusters of grapes, and the words "Bottled by Vve Robert & Cie," printed upon a capsule on each of the aforesaid packages, under which said capsule on each of said packages there appeared printed thereon three stars, all of which said statements, designs, and devices were false and misleading, because they would then and there lead the purchaser to believe that said food consisted of champagne cognac, whereas, in truth and in fact, it did not. Misbranding was alleged for the further reason that the product was labeled and branded, by reason of the words, abbreviation of words, and pictures set forth above, so as to deceive and mislead the purchaser into the belief that the food was a foreign product, whereas, in truth and in fact, it was not such a product. Misbranding was alleged for the further reason that said food, packages, and labels thereof bore certain statements, designs, and devices regarding the ingredients and the substances contained therein; that is to say, the words, abbreviations of words, and pictures appearing thereon set forth above, said statements, designs, and devices being false and misleading in a certain particular; that is to say, because they would lead the purchaser to believe that said food was champagne cognac and the product of a foreign country, whereas, in truth and in fact, said food was not a champagne cognac and was not a product of a foreign country.

On May 17, 1913, the A. Blum Jr.'s Sons, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product should be delivered to said claimant upon payment of the costs of the proceedings and the filing of a satisfactory bond in the sum of \$1,500 in conformity with section 10 of the act.

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., May 6, 1914.

**3034. Adulteration and misbranding of brandy. U. S. v. 3 Barrels of Brandy. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 5047. S. No. 1689.)**

On February 15, 1913, the United States attorney for the District of Arizona, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 3 barrels, purporting and representing to be brandy, remaining unsold in the original unbroken packages

and in possession of Albert Steinfeld & Co., Tucson, Ariz., alleging that the product had been shipped on or about November 18, 1912, by the E. G. Lyons and Raas Co., San Francisco, Cal., and transported in interstate commerce from the State of California into the State of Arizona, and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled: (On one head of barrels) "Superior high grade California brandy"; the words "superior" and "high grade" are in type one and one-half ( $1\frac{1}{2}$ ) inches in height; the words "California brandy" are one (1) inch in height; on the other head of each barrel appears "Brandy a Compound Proof 90" on two barrels and "Brandy a Compound Proof 80" on one barrel, and internal revenue stamp "349817," "The E. G. Lyons and Raas Co. Rectifiers 535-51, Folsom Street, San Francisco, A. C. Donnell, U. S. Gauger, 1st Dist. Cal.," the words "Brandy a Compound" are in type three-fourths ( $\frac{3}{4}$ ) of an inch high, the words and figures "proof 90" and "proof 80" are also three-fourths ( $\frac{3}{4}$ ) of an inch high, the remainder of the lettering and figures are one-half ( $\frac{1}{2}$ ) inch high.

It was alleged in the libel that an imitation brandy had been added to the product and substituted in whole or in part therefor; that the production and strength of the article by the addition of this imitation product and its substitution therefor in whole or in part constituted an adulteration in violation of section 7 of the act of Congress commonly designated as Food and Drugs Act, paragraphs first and second under Food; that the same was labeled "Superior High Grade California Brandy," when it consisted largely or wholly of an imitation product and was so labeled and branded in violation of section 8 of said act, paragraphs second and fourth thereof under Food; that said food substance was misbranded in violation of said act of Congress of June 30, 1906, and said labeling and branding as aforesaid was misleading and false so as to deceive and mislead the purchaser, and so as to offer the contents for sale under the distinctive name of another article and, therefore, misbranded within the meaning of said act of Congress.

On January 20, 1914, no claimant having appeared for the brandy, after hearing the testimony on the part of libellant, judgment of condemnation and forfeiture was ordered, and it was ordered by the court that the product be sold by the United States marshal after relabeling the same "Imitation Brandy."

B. T. GALLOWAY, *Acting Secretary of Agriculture.*

WASHINGTON, D. C., May 6, 1914.

**3035. Adulteration and misbranding of Scuppernong wine. U. S. v. 3 Barrels So-called Scuppernong Wine. Decree of condemnation. Product ordered sold. (F. & D. No. 5048. S. No. 1691.)**

On February 13, 1913, the United States attorney for the District of Indiana, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of three barrels, each containing six dozen bottles of a product purporting to be Scuppernong wine, remaining unsold in the original unbroken packages and in possession of F. S. and O. H. Roemler, a copartnership, doing business as the Pacific Wine Co., Indianapolis, Ind., alleging that the product had been shipped or transported from the State of Ohio into the State of Indiana and charging adulteration and misbranding in violation of the Food and Drugs Act. The product was labeled (on barrels, on one side) "Ohio Wine," (on the head of each barrel) "Glass. This side up. 72 Bottles. Keep from freezing Pacific Wine Co., Indianapolis, Ind." (On bottles, neck label) "Pleasant refreshing"; (on principal label) "Pleasant refreshing Ohio Scuppernong Wine."

Adulteration of the product was alleged in the libel for the reason that it purported to be Scuppernong wine, for which a base wine, sweetened and flavored in imitation of Scuppernong wine, had been substituted for Scuppernong wine and with which Scuppernong wine had been mixed a base wine, sweetened and flavored in imitation